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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 25, 2015
84th Legislature, Number 79
The House convenes at 10 a.m.
Part One

Twenty-five bills and one joint resolution are on the daily calendar for second-reading consideration today. The bills and joint resolution analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, May 25, 2015
84th Legislature, Number 79
Part 1

SB 208 by Campbell	Continuing the Texas Workforce Commission	1
SJR 52 by Campbell	Repealing the requirement that statewide elected officials live in Austin	10
SB 10 by Huffman	Establishing procedures for public integrity prosecutions	12
SB 1287 by Hinojosa	Creating forensic analyst license, shifting crime laboratory accreditation	19
SB 265 by Ellis	Permitting students to use sunscreen products in public schools	23
SB 1630 by Whitmire	Increasing local dispositions in certain juvenile court cases	25
SB 933 by Fraser	Establishing a CCN process for certain transmission interconnections	30
SB 932 by Fraser	Extending PUC's authority to hire outside counsel for federal proceedings	33
SB 277 by Schwertner	Abolishing certain health-related advisory committees and task forces	36
SB 1880 by Zaffirini	Requiring DFPS to investigate certain providers for abuse, neglect reports	42
SB 313 by Seliger	Revising school curriculum, limiting instructional material adoptions	47
SB 1580 by Garcia	Establishing a study on homeless veterans	54

SUBJECT: Continuing the Texas Workforce Commission

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 6 ayes — Button, C. Anderson, Faircloth, Metcalf, Villalba, Vo

1 nay — E. Rodriguez

2 absent — Johnson, Isaac

SENATE VOTE: On final passage, May 11 — 25-6 (Lucio, Menéndez, Perry, Rodríguez, Watson, Zaffirini)

WITNESSES: (*On House companion bill, HB 3294*)
For — Norma Crosby, National Federation of the Blind of Texas; (*Registered, but did not testify*: Gabriel Cazares, Texas Association of Blind Students; Mike Meroney, Huntsman Corp., BASF Corp. Sherwin Alumina, Co.; Carlton Schwab, Texas Economic Development Council; Stephanie Simpson, Texas Association of Manufacturers; Jason Taylor, Texas Rehab Action Network)

Against — Paul Hunt, American Council of the Blind of Texas, Chris Prentice, Austin Council of the Blind; Rodrick Robinson, Stephanie Robinson, New Life Medical; Max Arrell; Sheryl Hunt

On — Andres Alcantar and Larry Temple Texas Workforce Commission; Robin Jill Bradshaw, Texas Chargers; Minnie Christal, Chelsea Nguyen, Karla Horn, Rochelle Owens, and Edgar Sheppard, Texas Rehab Action Network; Guy Robert Jackson, Gulf Coast Workforce Board; Kyle Janek and Lisa Subia, Health and Human Services Commission; Jeff Miller, Disability Rights Texas; Nancy Toelle and Edgenie Bellah, Alliance of and for Visually Impaired Texans; Rebecca Trevino, Department of Assistive and Rehabilitative Services; Heather Withrow; Martha Garber; Stephen McFadden; (*Registered, but did not testify*: Sandra Breitengross Bitter, Texas State Independent Living Council; Veronda L. Durden, Department of Assistive and Rehabilitative Services; Faye Rencher and

Karen Latta, Sunset Advisory Commission; Janna Lilly, Texas Council of Administrators of Special Education; Linda Litzinger)

BACKGROUND:

The Texas Workforce Commission (TWC) oversees and provides workforce development services to employers and job seekers in the state. The Legislature created TWC in 1995 by merging workforce programs from several state agencies. Among other functions, TWC determines unemployment benefits, enforces state law to prevent and reduce employment discrimination, and collects, analyzes, and disseminates workforce and labor market data.

TWC is led by three governor-appointed commissioners, with one designated as the chair. The three commissioners serve as the policymaking body that oversees all TWC functions.

In fiscal 2013, TWC operated on a budget of about $1.09 billion. Almost 85 percent of this was derived from federal funds. About 11 percent was derived from general revenue. TWC employed about 3,340 staff in 2013, including more than 1,300 staff working in its Austin headquarters, 847 staff integrated within local workforce development boards, and 348 employees working in tax or appeals field offices throughout the state.

TWC would be discontinued on September 1, 2015, if not continued in statute.

DIGEST:

CSSB 208 would extend the operation of the Texas Workforce Commission (TWC) until September 1, 2027. The bill also would make several changes to operation of TWC.

Vocational rehabilitation. Some of the bill's changes involve vocational rehabilitation services, currently housed within the Department of Assistive and Rehabilitative Services (DARS).

Transfer of vocational rehabilitation. The bill would transfer vocational rehabilitation services from DARS to TWC. As soon as practicable after the effective date of the bill, TWC would be required to integrate office space and information technology systems. All related services, programs, obligations, contracts, property, and records in custody of DARS would

be transferred to TWC by September 1, 2016, subject to federal approval. TWC would be required to integrate all vocational rehabilitation programs not later than October 1, 2017. TWC would be required to integrate all vocational rehabilitation staff by August 31, 2018.

The bill would authorize DARS or TWC, as appropriate, to seek any required federal approval for TWC to administer:

- the vocational rehabilitation program for individuals with visual impairments;
- the vocational rehabilitation program for individuals with other disabilities;
- the Independent Living Services Program for older individuals who are blind; and
- the Criss Cole Rehabilitation Center.

The bill also would authorize DARS or TWC to seek federal approval, if required, for the following:

- for TWC, beginning on September 1, 2016, to administer the program for vending facilities operated by blind persons, including the Business Enterprises Program under the Randolph-Sheppard Act; and
- to designate within TWC the state unit that is currently responsible for administering the state's vocational rehabilitation program.

The affected vocational rehabilitation programs would be reorganized to:

- provide services to clients based on the functional need of the client rather than the type of disability;
- develop a plan to support specialization of counselors; and
- consolidate policies and redesign performance measures for provision of services.

TWC would be required to create a designated state unit for vocational rehabilitation services in compliance with federal law. The unit would be primarily responsible for and concerned with vocational rehabilitation of

individuals with disabilities and would have its own full-time director and a staff substantially employed full-time on rehabilitation work.

The unit would have an organizational status within TWC that was comparable to other major organizational units of the commission.

Rehabilitation Council. The bill would transfer the Rehabilitation Council of Texas to TWC on September 1, 2016.

Federal funds. The comptroller would receive, manage, and distribute any federal funds received to implement federal vocational rehabilitation mandates. TWC would be required to certify the disbursement of any federal funds. TWC could comply with any requirements necessary to obtain the maximum amount of federal funds available for vocational rehabilitation.

TWC could cooperate with other public and private agencies, as well as other states, in implementing the goals of vocational rehabilitation. TWC would be required to cooperate with the federal government to accomplish the goals of vocational rehabilitation. TWC would be required to train counselors to understand work incentives and to ensure that commission clients were informed of the availability of federal work incentives. TWC also would create eligibility guidelines for providing vocational rehabilitation services and assess the effectiveness of the program annually.

Legislative oversight committee. The bill would include a legislative oversight committee to oversee the transition and integration of the state's vocational rehabilitation services if the Health and Human Services Commission's Sunset reauthorization bill under consideration by the 84th Legislature were not enacted**.** The Legislative oversight committee would facilitate the transfer of DARS functions to TWC and the transfer and consolidation of administrative support services functions with minimal negative effect on the delivery of services.

With assistance from TWC and the transferred agencies and entities, the committee would advise TWC on specified functions to be transferred, related funds and obligations, and the reorganization of DARS'

administrative structure under the law. The committee's members would include legislators appointed by the lieutenant governor and the speaker of the House in addition to members of the public appointed by the governor.

Appointments would be made by October 1, 2015. The committee would meet at least quarterly and would be subject to statute regarding open meetings. The committee would submit a biennial report to provide an update on the progress of and issues related to the transfer of functions to TWC, including the need for any additional changes to statute that were needed to complete the transfer of services. The committee would be abolished August 31, 2019.

Transition plan. The bill would require the transfer of vocational rehabilitation services and other services and programs under the bill to be accomplished in accordance with a transition plan developed by the TWC executive director, the DARS commissioner, and the HHSC executive commissioner to ensure that the transfer and provision of services and programs were accomplished in a careful and deliberative manner.

The bill would specify the items that the transition plan would have to include, among them, a schedule for implementing the transfer of services and programs, measures to ensure that unnecessary disruption to the provision of transferred services and programs did not occur, a strategy for integrating DARS vocational rehabilitation staff into TWC's workforce development boards and centers, and a strategy for integrating vocational rehabilitation programs for individuals with visual impairments and for individuals with other disabilities.

Contracts with service providers. TWC would be required to use a risk assessment methodology on which to base the rates paid in contracts with service providers. Contracts with service providers would be required to contain clearly defined performance standards, penalties, and accounting, reporting, and auditing requirements. Service providers that supplied adaptive technology would be required to provide training in the adaptive technology's use to clients of the program. TWC would be allowed to establish a program to finance the purchase of technological aids for visually impaired clients.

Criminal history record. TWC would be allowed to obtain the criminal history record for an applicant selected for employment by the rehabilitation council, an applicant for rehabilitative services, or a client who was receiving rehabilitative services from the commission. Any criminal history obtained by TWC would be confidential and could not be released except on court order, or with written consent by the person to whom the criminal history record applied. TWC would be required to establish criteria for denying an application for employment based on an applicant's criminal history record.

Youth with disabilities. TWC would create a specialized training program for transition counselors, vocational transition specialists, and other employees. In collaboration with the Texas Education Agency, the commission would identify areas of the state with the greatest need for transition services for students with disabilities with the goal of contacting a student about three years before the student graduated from high school.

Civil Rights Division. Responsibility for overseeing the TWC's Civil Rights Division currently is split between TWC and the Human Rights Commission, which was left in place when the Legislature abolished the Texas Commission on Human Rights as an independent agency and transferred its functions to the TWC under a separate Civil Rights Division. Despite this transfer, the Civil Rights Division kept its own board.

The bill would abolish the Human Rights Commission and transfer its duties to TWC. TWC would develop risk assessment criteria based on previous complaints and review findings to determine whether a state agency's personnel policies and procedures should be audited more frequently than every six years. TWC would collect and analyze information on employment discrimination complaints that TWC deemed to have merit and would include this information in its annual report to the governor and the Legislature.

The bill would direct TWC to review the reimbursements that an agency was required to pay TWC for the cost of conducting such an audit. Based on the results of this review, TWC would adjust the reimbursement rate to adequately recover the expenses of the audit.

Recovery of unemployment compensation debt. The bill would allow TWC to recover past due unemployment compensation debt through the federal Treasury Offset Program. TWC could recover past-due debt caused by an erroneous payment due to fraud or a person's failure to report earnings or any uncollected debt for which an employer was liable. TWC could collect any penalties and interest assessed on the past-due debt.

TWC would have to provide the debtor at least 60 days to present evidence that the debt was not legally enforceable, due to fraud, or otherwise owed to the compensation fund. TWC could only determine whether the debtor had demonstrated that the debt was not subject to recovery by the offset program, not whether the person was liable to pay the past-due debt. The program would be required to charge the debtor any administrative cost by the federal offset program.

Subsidized child care program. TWC would be required to report at least a five-year trend in the employment outcome of parents receiving subsidized care under TWC's child care program to the Legislature. TWC also would be required to develop a policy for obtaining input from interested parties on its subsidized child care program and to use the input in administering the program.

Other changes. TWC would include a list of any formal enforcement action taken by TWC against a school or college in its searchable directory of schools and colleges on its website. The bill would require TWC to adopt rules to adopt a timeline and regular review for updating the quality standards for the Rising Star Program.

TWC would be required to adopt all rules, policies, and procedures required for the integration of vocational rehabilitation services by September 1, 2017.

The bill would take effect September 1, 2015. Any actions taken by the Human Rights Commission before that date would remain valid.

SUPPORTERS

CSSB 208 would extend a valuable and well-run state agency. The bill

SAY:

also would address problems of accountability, inefficiency, and policy inconsistency among the vocational rehabilitative services in the state by consolidating many of these services. By breaking down institutional barriers and eliminating fragmentation by combining similar functions, the bill would strengthen accountability in rehabilitative services.

Transitioning from DARS to TWC the vocational rehabilitation services for individuals who are blind would move from a social services-driven model to a workforce-investment model. Transitioning to TWC's workforce-investment model could improve the participation of blind individuals in the workforce. The bill also would address stakeholder concerns by transferring the Criss Cole Rehabilitation Center to TWC.

The transition process would require the legislative oversight committee established by the bill to consider input from appropriate stakeholders and to hold public hearings throughout the state to ensure the transfer was accomplished in a careful and deliberate manner. The requirement for TWC to update and reorganize rehabilitative services also would ensure that people with disabilities received effective services by focusing on maintaining specialized counselors to serve different client populations.

The bill would allow TWC to recover millions in outstanding unemployment compensation debts. This not only would ensure that Texas complied with federal law but also likely would reduce the need for future tax increases to Texas employers.

By moving the Human Rights Commission's functions to TWC, the bill would streamline the review of personnel policies. The bill also would allow for TWC to review an agency's personnel policies more than once every six years.

The bill would help TWC to better manage its subsidized child care program to ensure the program was using in-depth data to improve the program's effectiveness and outcomes.

OPPONENTS SAY:

CSSB 208 could place a heavy administrative burden on TWC and DARS. It would leave several vocational rehabilitative services at other agencies for various reasons. By requiring some programs to move but not

others, the bill could make it difficult for individuals with disabilities to access services split across several agencies. Blind services, in particular, should all be moved to TWC to reduce confusion for clients about which agencies would provide services for that population.

The bill also would require the integration and reorganization of several programs within a year after enactment. There are several guidelines and training programs that the bill would require TWC to establish. This creates a significant risk of disruption or overlap in services to people with disabilities. Furthermore, the integration and reorganization requirements would place a cost and time burden on all agencies involved, which could limit their ability to meet basic functions.

By transferring to TWC the Human Rights Commission's powers and responsibilities relating to the Civil Rights Division, the bill could pose a risk of reducing public input on discriminatory employment practices. While the bill calls for annual audits of agency personnel policies, it would not require TWC to rely as heavily on public input as current law.

NOTES:

The Legislative Budget Board estimates the bill would have a negative fiscal impact on general revenue related funds of $6.7 million through fiscal 2016-17.

SUBJECT: Repealing the requirement that statewide elected officials live in Austin

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Cook, Giddings, Farney, Geren, Harless, Huberty, Kuempel, Minjarez, Oliveira, Sylvester Turner

1 nay — Craddick

2 absent — Farrar, Smithee

SENATE VOTE: On final passage, April 20 — 29–1 (Estes)

WITNESSES: No public hearing

BACKGROUND: Tex. Const., Art. 4, sec. 23 requires the comptroller of public accounts, commissioner of the General Land Office, the attorney general, and any statutory state officer who is elected statewide to reside at the capital during their terms of office.

DIGEST: SJR 52 would amend Texas Constitution, Art. 4, sec. 23 by removing the requirement that the comptroller of public accounts, commissioner of the General Land Office, the attorney general, and any statutory state officer who is elected statewide reside in the state capital city of Austin during their terms of office.

The proposed constitutional amendment would be submitted to voters at an election on November 3, 2015. The ballot would read: "The constitutional amendment repealing the requirement that state officers elected by voters statewide reside in the state capital."

SUPPORTERS SAY: SJR 52 would remove the requirement in the Texas Constitution that certain statewide elected officials reside in Austin during their terms in office. This requirement made sense when the Constitution was adopted in 1876 because it could take days to travel to Austin. The requirement is no longer necessary due to the many advances in transportation and technology that could allow officials to easily travel to Austin or to

manage their duties while living elsewhere. The proposed constitutional amendment has received support from representatives of both major political parties, and it is time to give voters a choice in this matter.

Officials may want to live in cities surrounding Austin and commute to work. It does not make sense to limit an elected official's choice of where to live. In addition, considerations involving work and school for an elected official's spouse and children could make permanently residing in Austin difficult.

Some officials elected statewide who had previously represented a legislative district might not want to lose their local residency in case they later decide to seek an office that requires them to reside in a certain district.

OPPONENTS SAY:

SJR 52 would change a provision in the Constitution that has served Texans well. Those elected to guide large agencies like the comptroller's office, the land office, or the attorney general's office should be present at their respective agency headquarters in Austin on a daily basis. These officials knew of the constitutional requirement to reside in the seat of Texas government when they decided to seek the office.

While technology has made it easier for some workers to conduct business from home, such an arrangement might not be appropriate for a statewide elected official. Being physically present in Austin would ensure these officials are available to handle the important business of the state and meet with other state leaders as necessary.

NOTES:

The Legislative Budget Board estimates that the cost to the state for publication of the proposed resolution would be $118,681.

SUBJECT: Establishing procedures for public integrity prosecutions

COMMITTEE: General Investigating and Ethics — committee substitute recommended

VOTE: 4 ayes — Kuempel, S. Davis, Hunter, Larson

3 nays — Collier, Moody, C. Turner

SENATE VOTE: On final passage, April 9 — 20-11 (Ellis, Garcia, Hinojosa, Lucio, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: (*On House companion bill, HB 1690*)
For — None

Against — Jules Dufresne, Common Cause Texas; Carol Birch, Public Citizen, Texans for Public Justice; Sara Smith, Texas Public Interest Research Group; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas)

On — Brantley Starr, Office of Attorney General; David Slayton, Office of Court Administration, Texas Judicial Council; Steven McCraw, Texas Department of Public Safety; Robert Kepple, Texas District and County Attorneys Association; Gregg Cox, Travis County District Attorney's Office, Public Integrity Unit

BACKGROUND: The Travis County District Attorney's Office established the Public Integrity Unit in 1978 to investigate and prosecute crimes related to state government. Cases include fraud and financial crimes targeting various state programs and public corruption cases against state employees and officials involving offenses in Travis County. The Legislature has funded the unit since the early 1980s. The unit's funding for fiscal 2014-15 was vetoed by the governor.

DIGEST: CSSB 10 would add to Government Code, ch. 41 a new subchapter establishing procedures for public integrity prosecutions involving elected and appointed state officials and state agency employees.

The bill would include the following as offenses against public administration:

- offenses listed in Title 8 of the Penal Code, such as bribery and coercion, when committed by a state officer or state employee in connection with the powers and duties of the state office or employment;
- conduct that violates Government Code requirements for the members of the Legislature, including campaign finance and personal financial disclosure requirements;
- violations of nepotism laws committed by state officers; and
- violations of Election Code regulations of political funds and campaigns committed in connection with a campaign for or the holding of state office or an election on a proposed constitutional amendment.

The bill would not limit the authority of the attorney general to prosecute election law offenses.

Investigations. Officers of the Texas Rangers would be required to investigate formal or informal complaints alleging an offense against public administration, unless another state agency is designated as having primary responsibility. The Rangers would be required to provide assistance if requested by a state agency with primary responsibility.

Conflicts of interest. If there were a conflict of interest involving an investigation of a member of the executive branch, the Rangers could refer an investigation to the local law enforcement agency that would otherwise have authority to investigate the complaint. Local law enforcement would have to comply with all the bill's requirements.

If, in the course of an investigation, the Rangers would determine that an individual who is assigned to the security detail of a state official is a fact witness or has knowledge of facts underlying the complaint, the Rangers must refer the investigation to another law enforcement agency. If a formal or informal complaint made allegations against the public safety director or a deputy or assistant director of the Department of Public Safety, the Rangers would be required to refer the investigation to another

law enforcement agency.

Prosecutions. The bill would provide different venues for the prosecution of complaints that have been referred by the Texas Rangers, depending on whether the individual being prosecuted was a statewide elected official, member of the Legislature, or a state agency employee.

If a defendant in a public integrity prosecution was an elected official required to reside in the state capital, venue would be the county in which the defendant resided at the time the defendant was elected to statewide office.

If a defendant was a state officer — defined as an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency — venue would be the county in which the defendant resided at the time the offense was committed.

If a defendant was a state employee who is not a state officer, venue would be the county in which the conduct constituting the offense against public administration occurred.

If a complaint alleged an offense committed by two or more defendants, venue would be any county in which the conduct occurred.

Recusal. A prosecutor or defendant could request to be recused from a case for good cause. A prosecutor who had a current or past financial or other business relationship with the defendant would be required to request to be recused. A prosecutor would be required to disclose any campaign contributions made to or received from the person against whom the complaint was made or a political committee organized for the benefit of the person against whom the complaint was made. The court would consider such a disclosure in determining whether good cause existed for recusal.

If the court with jurisdiction over the complaint approved the request, an alternate prosecutor would be selected by a majority vote of the presiding judges of the state's nine administrative judicial regions. The

administrative judges would be required to select an alternate prosecutor from the same administrative judicial region and would have to consider the proximity of the county or district represented by the alternate prosecutor to the county in which venue is proper. An alternate prosecutor must consent to the appointment.

Statute of limitations. The alternate prosecutor could pursue a waiver to extend the statute of limitations for the offense by no more than two years.

Notice. Not later than the 90th day before the expiration of the statute of limitations for prosecution of an offense alleged in a complaint, the prosecutor would be required to notify the Rangers of the status of the case. If a prosecutor did not provide the status notification, the Rangers would be required to immediately notify the Legislature.

The bill would remove the Travis County district attorney and add the "appropriate prosecuting attorney" to prosecutions for contempt of the Legislature under Government Code, sec. 301.027. Upon receiving a statement of facts concerning contempt allegations, the Senate president or House speaker would be required to certify it to the appropriate prosecuting attorney under the bill's venue provisions. The prosecuting attorney or an alternate prosecutor selected under the bill's recusal provisions would have to bring the matter before the grand jury for action and, if the grand jury returned an indictment, would have to prosecute the indictment.

Confidentiality. The bill would require state agencies and local law enforcement agencies to cooperate with public integrity prosecutions by providing information requested by the prosecutor and would exempt disclosed information from state public information laws.

The bill would take effect September 1, 2015, and would apply only to offenses committed on or after that date. An investigation classified as ongoing or pending on the effective date would remain with the entity that was conducting the investigation, unless the entity consented to transfer the investigation to the Rangers.

The bill states that if any provision in the bill or its application to any

person or circumstance was held invalid, the invalidity would not affect other provisions or applications.

SUPPORTERS SAY:

CSSB 10 would establish a fairer process for investigating and prosecuting elected state officials for public corruption crimes, such as bribery and violations of ethics laws. Complaints would be investigated by the Texas Rangers and prosecuted in the home county of the elected official. This process would disperse power from a single district attorney's office in the state capital to prosecutors around the state. This spreading of authority could help alleviate concerns that politics has played a role in certain high-profile prosecutions of state officials in Travis County.

The Texas Rangers are an elite law enforcement agency with sufficient training and experience to conduct public integrity investigations. The Rangers already have a unit dedicated to public corruption cases and could easily absorb the small number of complaints brought against state officials each year. The Rangers also have civil service protections that could give them an added layer of independence from political pressure that could be connected to an investigation.

The bill would guard against possible conflicts of interest during an investigation and prosecution. The Rangers would be required to refer certain cases to another law enforcement agency. A prosecutor who had financial or business relationships with a defendant would be required to turn the case over to an alternate prosecutor. A prosecutor also would have to disclose campaign contributions made to or received from a defendant.

The bill would create a neutral venue and would allow defendants to be tried by a jury of their peers. Contrary to opponents' suggestions that the hometown venue would favor a defendant, the criminal prosecution likely would be more accessible to local voters and covered by local media. There is precedent in state law for trying defendants in the county where they reside for offenses committed elsewhere. For example, Code of Criminal Procedure, art. 13.10 provides that certain offenses committed outside Texas by a state officer acting under state authority may be prosecuted in the county where the officer resides.

The bill would not disturb Travis County's jurisdiction over offenses involving insurance fraud and motor fuels tax collections. The Travis County D.A.'s Public Integrity Unit would continue to prosecute fraud and financial crimes targeting various state programs and certain crimes committed by state employees. These cases make up the vast majority of the Public Integrity Unit's caseload.

Concern about the confidentiality of information provided in connection with public integrity prosecutions is overstated. Current law contains exceptions from public information laws for records and information if the release of the information would interfere with a criminal investigation or prosecution.

OPPONENTS SAY:

CSSB 10 could result in less accountability in public corruption cases by giving elected state officials a "home-field advantage" during a prosecution. The bill would make a significant change from the usual prosecution of crimes in the county where they occurred.

Placing venue in an official's home county could set the stage for crony politics. For example, the local prosecutor overseeing the case may be friends or political acquaintances with the official being prosecuted.

In the event that a prosecution was transferred to another county, the bill also could increase costs for public corruption prosecutions if witnesses were required to travel to a county far from where the crime occurred.

There could be conflicts of interest involving the Texas Rangers, which is a division of the Texas Department of Public Safety (DPS). The DPS director is hired by the Public Safety Commission, whose five members are appointed by the governor. Many other high-ranking state executives also are appointed by the governor. While the Rangers could refer an investigation involving a member of the executive branch to a local law enforcement agency, they would not be required to transfer the case.

The bill would exempt from state public information laws information from state agencies and local law enforcement provided in connection with public integrity prosecutions. This blanket exemption could result in information that normally would be available to the public through open records laws becoming off limits when a local prosecutor takes over a

case.

The bill is based on incorrect perceptions that the Travis County District Attorney has made partisan decisions in public corruption prosecutions. Since its inception, the D.A.'s Public Integrity Unit has prosecuted elected officials from both political parties. Additionally, the bill could complicate the Travis County D.A.'s ability to pursue certain charges involving employees who lived outside Travis County.

OTHER OPPONENTS SAY:

CSSB 10 contains confusing and potentially overbroad language that would require a prosecutor who has or had a financial or business relationship with a defendant to seek a recusal. This could force a prosecutor to step aside in cases where the relationship with a defendant was minimal or had occurred many years earlier. It would be best to leave decisions about whether to seek a recusal to prosecutors' sound discretion, a standard that has historically worked well.

Provisions allowing a defendant to ask for a prosecutor's recusal could create an opportunity for a defendant to continually attack a prosecutor. Existing law covers circumstances in which a defendant might be able to show a due process violation and seek the recusal of a prosecutor.

The bill would require the Texas Rangers to refer cases to another agency under certain circumstances that could present conflicts of interest. Instead of trying to address specific potential conflict, the bill should allow the Rangers to exercise common sense and decide when to refer a case.

SUBJECT: Creating forensic analyst license, shifting crime laboratory accreditation

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, Miles, D. Miller

0 nays

1 absent — S. Thompson

SENATE VOTE: On final passage, April 16 — 29-2 (Burton, Huffines)

WITNESSES: For — Bill Gibbens, Texas Association of Crime Laboratory Directors; (*Registered, but did not testify*: Lindsay Lanagan, City of Houston)

Against — None

On — (*Registered, but did not testify*: Lynn Garcia, Texas Forensic Science Commission)

BACKGROUND: Crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings are accredited through a process established by the director of the Department of Public Safety, as required under Government Code, sec. 411.0205.

Under Code of Criminal Procedure, art. 38.35, a forensic analysis of physical evidence and related expert testimony are not admissible in a criminal action if the crime laboratory is not accredited.

DIGEST: CSSB 1287 would change the agency responsible for the accreditation of crime laboratories, create a forensic analyst license, and create an advisory committee.

Accreditation. The bill would shift crime laboratory accreditation procedures and responsibilities from the Department of Public Safety

(DPS) to the Texas Forensic Science Commission (TFSC).

Forensic analyst license. The bill would create a license for a "forensic analyst," which would be defined as a person who performs or reviews forensic analyses or interprets forensic analyses for a court or crime laboratory accredited by TFSC. Medical examiners or other forensic pathologists who were licensed physicians would not be included.

A person could not act as a forensic analyst without a license on or after January 1, 2019. The bill would require TFSC to establish by rule the qualifications for a license, the fees for an issuance or renewal, and the term of a license. The qualifications would include successful completion of:

- education requirements;
- course work and experience that includes instruction in courtroom testimony and ethics in a crime laboratory;
- an examination; and
- proficiency testing required for crime laboratory accreditation.

TFSC could recognize a certification issued by a national organization in an accredited field of forensic science as satisfying the examination requirement for a license if the content required for the certification was substantially equivalent to the content of the examination.

Disciplinary action. If TFSC determined that a license holder committed professional misconduct or a violation of a TFSC rule or relevant statutory provision, the commission could revoke or suspend the license, refuse to renew the license, or reprimand the license holder.

TFSC could place a person whose license had been suspended on probation. The commission could require the person to report regularly on the matters that were the basis of the probation or to attain a satisfactory degree of skill in the areas that were the basis of the probation.

Advisory committee. The bill would require TFSC to establish an advisory committee by January 1, 2016, to advise TFSC and make recommendations on matters related to the licensing of forensic analysts.

The advisory committee would consist of nine members:

- one prosecuting attorney recommended by the Texas District and County Attorneys Association;
- one defense attorney recommended by the Texas Criminal Defense Lawyers Association; and
- seven forensic scientists, crime laboratory directors, or crime laboratory quality managers selected by TFSC from a list of 20 names submitted by the Texas Association of Crime Laboratory Directors.

The advisory committee would elect a presiding officer and would meet once a year and at the call of the presiding officer or TFSC. Members would not be entitled to compensation but could be reimbursed for actual and necessary expenses incurred.

On September 1, 2015, a certificate of accreditation issued by DPS would continue to be in effect as a certificate of accreditation of TFSC. An application or proceeding that was pending before DPS on the effective date of the bill would be transferred to TFSC without a change in status.

Except as otherwise provided, the bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSSB 1287 would provide a solution to ensure the competence of forensic analysts. A crime laboratory must be accredited in Texas in order for evidence analyzed by that lab to be admissible in a criminal trial, but there is no accreditation procedure to assess the competency of individuals working in the lab. Analysts who engage in misconduct face discipline only from the lab and can continue working at other labs.

In criminal cases, a person's life and liberty are at stake, and forensic analysis of physical evidence and the related testimony are often the deciding factors. In 2012, the Department of Public Safety retested evidence in hundreds of drug cases after it discovered an error, and subsequently found others, by the analyst who did the original testing in those cases. Forensic analysts should be competent and held accountable for substandard work.

OPPONENTS SAY:

CSSB 1287 would create another level of bureaucracy and regulation where it is not needed. The forensic analyst license would be unnecessary because there is not a crisis of criminal cases being overturned due to shoddy forensic analyses.

The bill only would create a barrier to entry in the forensic analysis industry, making it more difficult for people to begin those careers. The Legislature should promote economic freedom and remove state barriers to employment, not add new ones.

SUBJECT: Permitting students to use sunscreen products in public schools

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Aycock, Allen, Bohac, Deshotel, Farney, Galindo, Huberty, K. King, VanDeaver

0 nays

2 absent — Dutton, González

SENATE VOTE: On final passage, April 22 — 28-2 (Creighton, V. Taylor)

WITNESSES: (*On House companion bill, HB 1498*)
For — James Allred, Texas Dermatological Society; (*Registered, but did not testify*: Ellen Arnold, Texas PTA; Clayton Travis, Texas Pediatric Society; Matt Long; Sandy Ward)

Against — None

On — Jeffrey Gershenwald, UT MD Anderson Cancer Center; (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, ch. 38 establishes health and safety regulations at public schools.

Some observers have noted that school districts sometimes adopt policies on medication in schools that include banning unauthorized possession of over-the-counter medication. Sunscreen is regulated as an over-the-counter drug product, which may lead to some students having restricted access to sunscreen because of school policies.

DIGEST: CSSB 265 would allow a student to possess and use a topical sunscreen product while on school property or at a school-related event to avoid sun overexposure and not for the medical treatment of an injury or illness. The product would be required to be approved for over-the-counter use by the

U.S. Food and Drug Administration.

The bill would not waive any immunity from liability of a school district, its board of trustees, or its employees, nor create any liability for or a cause of action against a school district, its board of trustees, or its employees.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and the bill's provisions would apply at the beginning of the 2015-16 school year.

SUBJECT: Increasing local dispositions in certain juvenile court cases

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Dutton, Riddle, Peña, Rose, Sanford, J. White

0 nays

1 absent — Hughes

SENATE VOTE: On final passage, April 14 — 31-0

WITNESSES: No public hearing

BACKGROUND: Under Family Code, sec. 54.04(c), juvenile courts and juries making a disposition in a case may place juveniles on probation in their homes. However, if a juvenile cannot be provided the needed support and supervision required to meet the conditions of a probation disposition, the juvenile court may place the juvenile outside of his or her home in certain settings. One possibility for youth who are adjudicated of certain conduct is placement in a facility run by the Texas Juvenile Justice Department (TJJD).

Dispositions in juvenile court cases may be indeterminate, and TJJD may determine the length of commitment to its facilities based on certain factors. Juveniles adjudicated for certain serious or violent conduct may be given a determinate (fixed) sentence of up to 40 years in a TJJD or local detention facility, with possible release on parole or future transfer to the adult prison system or the adult parole system. The rights of youths secured in TJJD facilities are overseen by the Office of Independent Ombudsman under Human Resources Code, ch. 261.

DIGEST: SB 1630 would require the Texas Juvenile Justice Department (TJJD) to develop a plan for juvenile probation departments across the state to keep youth closer to home rather than committing them to TJJD facilities. The bill also would amend disposition options for juvenile courts and juries for certain youth, require funding strategies for changes under the

bill, and expand the oversight of the Office of the Independent Ombudsman.

Regionalization plan for serving juveniles. SB 1630 would require the TJJD and the Texas Juvenile Justice Board to implement a regionalization plan for serving youth in the juvenile justice system closer to home instead of committing them to TJJD's secure facilities. Each region would be required to operate defined, appropriate, research-based programs for youth under the regionalization plan. TJJD would consult with juvenile probation departments to identify capacity at post-adjudication facilities operated by juvenile probation departments, counties, or private operators that could help support the regionalization plan.

The regionalization plan would include a budget review, redirection of staff, and funding mechanisms needed to support the plan. TJJD would create a new division to administer the regionalization plan, monitor program accountability, and perform other functions, such as:

- approving plans and protocols to administer developed regional models;
- providing training on best practices to local probation departments;
- assisting in research-based program development; and
- analyzing TJJD data to provide clear guidance to local probation departments on outcome measures.

TJJD would develop contracts for placement and services under the regionalization plan that would include certain performance standards. Regions wishing to offer evidence-based, intensive in-home services could receive funding only for those services if they met these performance standards. TJJD would be required to adopt rules allowing local probation departments under the regionalization plan to access juvenile case management data that they had submitted for research and planning purposes.

Special commitments to TJJD. SB 1630 also would amend disposition options for juveniles who had been found to have engaged in delinquent conduct constituting a felony but who were not facing a determinate sentence. In these cases, courts and juries could make a special

commitment finding if the juvenile had behavioral health or other special needs, identified by a juvenile probation department through a validated needs assessment, which could not be met through resources available in the juvenile's community.

If such a finding were made, the court could commit the child to either a post-adjudication secure correctional facility or to TJJD. The department would be required to develop specialized programs and special projects for youth with determinate sentences and youth who had received a special commitment. Specialized programs would need to ensure the safety and security of committed youth and provide developmentally appropriate program strategies. TJJD would establish performance-based goals related to improved outcomes, such as reduced recidivism and other well-being outcome measures.

TJJD would be required to identify youth who could safely and appropriately be transferred from TJJD facilities to a local alternative placement or a halfway house, placed on probation or parole, or otherwise released under supervision. The department also would study and report to the juvenile justice board on how existing secure facilities could be repurposed for the confinement of youth who had received determinate sentences or who had received a special commitment, or for other purposes.

Probation department funding formula. SB 1630 would establish a probation funding formula defined by what basic probation entailed and what services were provided. Under current law, TJJD is required to allocate annually state aid funds to juvenile boards to provide juvenile services, and the bill would require the department to use the formula for this purpose, in addition to other factors. The bill also would allow the Legislature to appropriate funds to initiate the regionalization plan in a way that generated savings to the state through a decreased population of youth detained in secure facilities operated by TJJD.

The bill would require TJJD to set aside a portion of its discretionary state aid appropriations to fund projects with established recidivism reduction goals dedicated to serving specific populations based on risk and needs. The department also would be required to reimburse counties for the

placement of youth under the regionalization plan at a rate that would offer a savings to the state compared with the relative cost for detaining a child in a TJJD secure facility.

Office of the Independent Ombudsman. SB 1630 would give the Office of Independent Ombudsman authority over post-adjudication facilities for juvenile offenders. The bill also would allow the ombudsman to investigate any complaints alleging that the rights of youths committed to post-adjudication facilities for juvenile offenders were being violated.

The bill would take effect September 1, 2015. The changes in law regarding special commitments would apply only to conduct that occurred on or after September 1, 2017.

SUPPORTERS SAY:

SB 1630 would continue the successful reforms Texas has undertaken in its juvenile justice system over the past several years by ensuring that juveniles received effective treatment to prevent recidivism, were sent to the appropriate programs, and were kept safe.

Keeping certain low- and medium-risk youth closer to home for dispositions can have significant positive outcomes, including decreased recidivism. In Texas, more of these youth could be kept locally, and more could be done for local juvenile probation programs. SB 1630 would help address these issues and allow for regional collaboration. The bill also would improve the treatment and rehabilitation of youth with specialized needs who could not be served in the community. State facilities still would be an option for the most serious-level cases.

SB 1630 would result in overall savings to the state because state-run facilities have been shown to be more expensive to operate than local programs. Recidivism also can be costly. Funding for the regionalization plan proposed in this bill currently is reflected in this session's budget proposal.

The increased authority that the bill would give to the Office of Independent Ombudsman would ensure that youth served in regional facilities were provided the same modicum of safety as youth in state facilities while the state works to continue improving youth outcomes by

keeping more youth close to home.

OPPONENTS SAY:

SB 1630 could burden juvenile probation departments across the state by allowing the Office of the Independent Ombudsman to oversee their operations. Juvenile probation offices already are subject to the oversight of the Texas Juvenile Justice Department, and adding additional reporting requirements would be duplicative and problematic.

OTHER OPPONENTS SAY:

While SB 1630 would be a positive next step in moving forward juvenile justice reform in Texas, local juvenile probation departments, particularly in smaller counties, would have to receive the funding and technical support necessary to implement the requirements of the bill.

NOTES:

According to the Legislative Budget Board, SB 1630 would result in a negative impact to general revenue of about $1.1 million through fiscal 2016-17.

SUBJECT: Establishing a CCN process for certain transmission interconnections

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 10 ayes — Cook, Giddings, Farney, Farrar, Geren, Harless, Huberty, Kuempel, Minjarez, Smithee

0 nays

3 absent — Craddick, Oliveira, Sylvester Turner

SENATE VOTE: On final passage, April 14 — 31-0

WITNESSES: For — Katie Coleman, Texas Association of Manufacturers; (*Registered, but did not testify*: Ray Schwertner, City of Garland; Michael Jewell and David Parquet, Southern Cross Transmission; Patrick Tarlton, Texas Chemical Council; John W. Fainter Jr., The Association of Electric Companies of Texas, Inc.)

Against — None

On — (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club; Brian Lloyd, Public Utility Commission)

BACKGROUND: The U.S. electric network is divided into three grids: the Western and Eastern interconnections and the Electric Reliability Council of Texas (ERCOT). The ERCOT region lies solely within Texas and is made up of 90 percent of Texas' total electric load and 75 percent of the state's land area. ERCOT excludes parts of the Panhandle, northeast and southeast Texas, and El Paso, which are in other adjacent power regions.

Because ERCOT is an intrastate grid, the Public Utility Commission of Texas (PUC) has regulatory authority over utilities operating within. The Federal Energy Regulatory Commission (FERC) has only limited jurisdiction over certain reliability standards.

ERCOT currently has a limited number of low capacity interconnections

through direct-current (DC) ties with the Eastern Interconnection and Mexico. All of these DC ties are located within the Texas and were obtained though certificates of convenience and necessity (CCNs) from the PUC.

According to the PUC, a company has proposed creating a new interconnection to the Texas grid in the eastern part of the state through its Southern Cross Project, which could be as large as 3,000 megawatts. Another company may initiate a project in the western part of the state that could be as large as 5,000 megawatts. Both projects would locate the DC station in other states, and for one project a municipally owned utility is building part of the transmission to interconnect to the ERCOT grid.

Current law does not provide a process for projects structured in this way to come before the PUC for a CCN. In addition to concerns about potentially bringing federal jurisdiction to the ERCOT grid, the size of these projects could have impacts on grid reliability, wholesale market prices, and costs to operate the grid. Extending the CCN process to such project could give the PUC a way of examining these issues to determine the impacts on consumers and producers.

DIGEST:

CSSB 933 would amend Utilities Code, sec. 37.051 to prohibit a person, including an electric utility or municipally owned utility, from interconnecting a facility to the Electric Reliability Council of Texas (ERCOT) transmission grid that enabled additional power to be imported into or exported out of the ERCOT power grid unless the person obtained a certificate of convenience and necessity (CCN) from the Public Utility Commission. The person would have to apply for the CCN within 180 days of seeking an order from the Federal Energy Regulatory Commission (FERC) related to the interconnection.

The Public Utility Commission (PUC) would have to determine that the application was consistent with the public interest before granting the CCN and could grant the CCN only if it was necessary for the service, accommodation, convenience, or safety of the public. The PUC could adopt rules as necessary to implement the bill.

SB 933 would require the PUC to process the application for the Southern

Cross project, which already has obtained an interconnection order from the FERC, within 185 days. The bill would allow the PUC to place reasonable conditions on this CCN necessary to protect the public interest.

SB 933 would stipulate that the bill was not intended to restrict the authority of the PUC or ERCOT to adopt rules or protocols of general applicability.

The bill would take effect September 1, 2015.

SUBJECT: Extending PUC's authority to hire outside counsel for federal proceedings

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Cook, Craddick, Farney, Harless, Huberty, Kuempel, Minjarez, Smithee

3 nays — Farrar, Oliveira, Sylvester Turner

1 present not voting — Giddings

1 absent — Geren

SENATE VOTE: On final passage, April 9 — 31-0, on local and uncontested calendar

WITNESSES: For — (*Registered, but did not testify*: John W. Fainter, Jr., The Association of Electric Companies of Texas, Inc.; Stephanie Simpson, Texas Association of Manufacturers)

Against — None

On — Brian Lloyd, Public Utility Commission

BACKGROUND: The U.S. electric network is divided into three grids: the Western and Eastern interconnections and the Electric Reliability Council of Texas (ERCOT). The ERCOT region lies solely within Texas and is made up of 90 percent of Texas' total electric load and 75 percent of the state's land area. ERCOT excludes parts of the Panhandle, northeast and southeast Texas, and El Paso, which are in other adjacent power regions.

Because ERCOT is an intrastate grid, the Public Utility Commission of Texas has regulatory authority over utilities operating within. The Federal Energy Regulatory Commission (FERC) has only limited jurisdiction over certain reliability standards.

There are four Texas utilities operating outside ERCOT: Entergy Texas, Inc.; the Southwestern Public Service; Southwestern Electric Power

Company (SWEPCO); and El Paso Electric. FERC has regulatory authority over these non-ERCOT utilities.

Utilities Code, sec. 39.4525 authorizes the Public Utility Commission to use outside consultants, auditors, engineers, or attorneys to represent the commission in a federal proceeding before FERC for matters relating to Entergy. These matters could include Entergy's relationship to a power region, regional transmission organization, or independent system operator as well as the approval of an agreement concerning the coordination of the operations of Entergy and its affiliates. Expenditures are capped at $1.5 million during a 12-month period and can be recovered through the rates.

The Public Utility Commission's authority to hire outside counsel is scheduled to expire in 2017.

DIGEST:

SB 932 would extend from 2017 to 2023 the authority of the Public Utility Commission (PUC) to use outside consultants, auditors, engineers, or attorneys to represent the commission in a proceeding before the Federal Energy Regulatory Commission (FERC) for matters relating to Entergy Texas, Inc. The bill also would extend the authorization to use outside counsel for other matters related to the electric utility that could affect the ultimate rates paid by retail customers in this state.

The bill also would give the PUC that same authority to use outside counsel in proceedings before FERC for two other non-ERCOT utilities, the Southwestern Public Service and SWEPCO. Each authorization also would have an expiration date of 2023 and would include the 12-month expenditure limit of $1.5 million.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

SB 932 would provide an important tool for the Public Utility Commission (PUC) to respond to complex federal regulatory matters and better enable it to protect the public interest in Texas. Federal Energy Regulatory Commission (FERC) proceedings tend to be lengthy and complicated, requiring specialized legal and consulting services.

The bill would extend the authorization and expenditure limit for the PUC to use outside counsel for federal proceedings relating to Entergy from 2017 to 2023. The PUC currently is a party to 21 separate FERC proceedings related to Entergy and anticipates that these proceedings will continue beyond 2017. Extending the existing expiration date would allow the PUC to continue retaining necessary legal and consulting services to ensure that Entergy's Texas ratepayers were adequately represented before FERC.

The bill also would create authority for the PUC to engage similar outside experts for issues relating to two other non-ERCOT utilities — the Southwestern Public Service and SWEPCO. The PUC has found itself increasingly involved in matters at FERC concerning how the wholesale markets in these areas work and how new transmission facilities are planned, built, and paid for. Texas ratepayers could be exposed to higher rates if the other states or FERC tried to make Texas bear more than its fair share of these costs. In addition, pending Environmental Protection Agency regulations may require additional work at FERC related to reliability of the power grids in these areas and additional cost allocation risk to Texas consumers.

The annual amount of costs to ratepayers would be capped for each utility and would be recovered through rates paid by customers for whom the PUC was acting. In the three years that this authority has existed for Entergy, the PUC has spent less than $800,000. While hiring outside counsel would be a cost to ratepayers, the costs would be minimal compared to what could result if the PUC was not adequately represented in federal proceedings.

OPPONENTS SAY:

SB 932 would allow costs of hiring outside counsel to be passed on to ratepayers. While the bill would provide a cap on the expenditures, this would place an additional burden on ratepayers, especially those with low incomes.

SUBJECT: Abolishing certain health-related advisory committees and task forces

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price, Spitzer

0 nays

2 absent — S. King, Klick

SENATE VOTE: On final passage, April 9 — 31-0, on local and uncontested calendar

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Kyle Janek, Health and Human Services Commission; Sarah Kirkle and Katharine Teleki, Sunset Advisory Commission)

BACKGROUND: The Sunset Advisory Commission's review of the Health and Human Services Commission recommended the removal of many of HHSC's advisory committees from statute, including those with Sunset dates. The Sunset Commission also recommended requiring the executive commissioner to re-establish in rule advisory committees that would cover all major areas of the agency.

In addition, Sunset recommended eliminating the Pharmaceutical and Therapeutics Committee and transferring its functions to the Drug Utilization Review Board.

DIGEST: CSSB 277 would abolish various task forces and health-related advisory committees, establish new advisory committees, regulate the Drug Utilization Review Board, and make changes to certain other advisory groups.

Abolished task forces and advisory committees. CSSB 277 would

abolish the following task forces and advisory committees, effective September 1, 2015:

- the Interagency Task Force on Electronic Benefits Transfers;
- the Medicaid and Public Assistance Fraud Oversight Task Force;
- the Advisory Committee on Inpatient Mental Health Services;
- the Interagency Inspection Task Force;
- the local authority network advisory committee;
- the Worksite Wellness Advisory Board;
- the Sickle Cell Advisory Committee;
- the Arthritis Advisory Committee;
- the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events;
- the Youth Camp Training Advisory Committee; and
- the Texas Medical Child Abuse Resources and Education System (MEDCARES) Advisory Committee.

Effective January 1, 2016, CSSB 277 would abolish 23 additional advisory bodies.

CSSB 277 also would abolish various other advisory bodies, as specified in the bill. The bill would make conforming changes to remove associated references to the abolished entities.

New advisory committees. Effective January 1, 2016, CSSB 277 would require the executive commissioner to establish and maintain advisory committees to consider issues and solicit public input across all major areas of the health and human services system, including the following:

- Medicaid and other social services programs;
- Medicaid managed care and the child health plan program;
- health care quality initiatives;
- aging;
- persons with disabilities, including persons with autism;
- rehabilitation, including for persons with brain injuries;
- children;
- public health;

- behavioral health;
- regulatory matters;
- protective services; and
- prevention efforts.

These advisory committees that would be established under the bill would be required to report any recommendations to the executive commissioner of the Health and Human Services Commission and to submit a written report to the Legislature of any policy recommendations made to the executive commissioner. CSSB 277 would specify that the executive commissioner would have to ensure that the advisory committees created under the bill would begin operations immediately once they were established, to ensure ongoing public input and engagement.

By March 1, 2015, the executive commissioner of HHSC would adopt rules in compliance with Government Code, ch. 2110 to govern the advisory committees' purposes, tasks, reporting requirements, and dates of abolition. The executive commissioner also would adopt rules related to an advisory committee's size and quorum requirements, membership as specified in the bill, and duty to comply with the requirements for open meetings in Government Code, ch. 551. Government Code, ch. 2110, on state agency advisory committees, would apply to these advisory committees.

Master calendar of meetings and online streaming. CSSB 277 would require HHSC to create a master calendar that would include all advisory committee meetings across the health and human services system. The commission would make the master calendar, all meeting materials, and streaming live video of each advisory committee meeting available on the commission's website. CSSB 277 would require the commission to provide Internet access in each room used for a meeting that appeared on the master calendar.

Drug Utilization Review Board. CSSB 277 would require the Drug Utilization Review Board to:

- develop and submit to HHSC recommendations for preferred drug

lists adopted by the commission;

- suggest to HHSC restrictions or clinical edits on prescription drugs;
- recommend to HHSC educational interventions for Medicaid providers;
- review drug utilization across Medicaid; and
- perform other duties that could be specified by law and otherwise make recommendations to HHSC.

The HHSC executive commissioner would determine the composition of the Drug Utilization Review Board, as specified in the bill. The executive commissioner also would develop by rule a process for a person to become a member of the board, as well as rules governing the operation of the board and rules for providing notice of a meeting. HHSC would provide administrative support and resources to the board. Government Code, ch. 2110, related to state agency advisory committees, would not apply to the board.

The executive commissioner would post on the commission's website an application and information about the application process to be a board member. CSSB 277 would prohibit board members from attending executive sessions or accessing confidential drug pricing information. The bill would specify board members' terms, the frequency of public meetings, and the process for electing officers.

The executive commissioner of HHSC would rule to require the board or the board's designee to present a summary of any clinical efficacy and safety information or analyses regarding a drug under consideration for a preferred drug list that was provided to the board by a private entity that had contracted with HHSC. The summary would be provided in an electronic format before a public meeting in which a drug would be considered. The summary would omit confidential information and would be posted on HHSC's website.

To the extent feasible, the board would review all drug classes included in the preferred drug lists at least every 12 months and could recommend drugs to be included or excluded from the lists to ensure that the lists would provide for a range of clinically effective, safe, cost-effective, and medically appropriate drug therapies for the Medicaid population, children

receiving CHIP, and any other affected individuals.

Immediately after the board made deliberations, the commission or the commission's agent would publicly disclose each specific drug recommended for or against preferred drug list status for each drug class included in the preferred drug list for the Medicaid vendor drug program. The disclosure would be posted on HHSC's website within 10 business days after the date the board concluded its deliberations. The disclosure would be required to include the general basis for the board's recommendation and whether a supplemental rebate agreement or a program benefit agreement was reached for each recommendation.

CSSB 277 would transfer duties of the Pharmaceutical and Therapeutics Committee to the Drug Utilization Review Board.

Funding for Texas Institute of Health Care Quality and Efficiency. Except as otherwise provided by law, CSSB 277 would require each of the following state agencies or systems to provide funds to support the Texas Institute of Health Care Quality and Efficiency:

- the Department of State Health Services;
- the Health and Human Services Commission;
- the Texas Department of Insurance;
- the Employees Retirement System of Texas;
- the Teacher Retirement System of Texas;
- the Texas Medical Board;
- the Department of Aging and Disability Services;
- the Texas Workforce Commission;
- the Texas Higher Education Coordinating Board; and
- each state agency or system of higher education that purchased or provided health care services, as determined by the governor.

HHSC would establish a funding formula to determine the level of support each state agency or system would be required to provide.

Interagency coordinating group. CSSB 277 would specify that service on the interagency coordinating group for faith- and community-based

initiatives would be an additional duty of the office or position held by each person designated as a liaison from the state agencies specified in Government Code, sec. 531.051(b). These agencies would provide administrative support for the interagency coordinating group as well as the Texas Nonprofit Council as coordinated by the presiding officer of the interagency coordinating group.

CSSB 277 also would specify that the Texas Nonprofit Council would include at least one member representing a statewide interfaith group.

Medical and hospital care advisory committees. SB 277 would require Medicaid medical and hospital care advisory committees to have one member who represented a managed care organization.

Publication of new and abolished advisory committees. By November 1, 2015, the executive commissioner of HHSC would publish in the Texas Register a list of the new advisory committees established under CSSB 277 and a list of certain advisory committees that would not be continued in any form or whose functions would be assumed by a new advisory committee.

Transition of assets. The property, records, or other assets of an abolished entity would transfer to HHSC.

Federal waivers. If a state agency determined that a waiver or authorization from a federal agency was necessary to implement a provision of CSSB 277, the agency affected by the provision would request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

Effective date. CSSB 277 would take effect September 1, 2015, except as otherwise provided by the bill.

SUBJECT: Requiring DFPS to investigate certain providers for abuse, neglect reports

COMMITTEE: Human Services — favorable, without amendment

VOTE: 9 ayes — Raymond, Rose, Keough, S. King, Klick, Naishtat, Peña, Price, Spitzer

0 nays

SENATE VOTE: On final passage, April 28 — 31-0

WITNESSES: (*On House companion bill, HB 2656*)
For — (*Registered, but did not testify:* Amanda Fredriksen, AARP; Katharine Ligon, Center for Public Policy Priorities; Lee Spiller, Citizens Commission on Human Rights; Dennis Borel, Coalition of Texans with Disabilities; Kathryn Lewis, Disability Rights Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Carole Smith, Private Providers Association of Texas; Lee Johnson, Texas Council of Community Centers; Douglas Smith, Texas Criminal Justice Coalition; Marilyn Hartman)

Against — None

On — (*Registered, but did not testify:* Calvin Green, Department of Aging and Disability Services; Beth Engelking and Karl Urban, Department of Family and Protective Services; Gary Jessee, Health and Human Services Commission; Marina Hench, Texas Association for Home Care and Hospice)

BACKGROUND: The Department of Family and Protective Services (DFPS) provides protective services for the state's children and for adults who are elderly or have a disability. The department investigates reports of abuse, neglect, and exploitation of these groups by health care providers and other individuals.

Some have suggested that the evolution of health care service delivery models has led to inconsistencies and ambiguities in statutes governing

DFPS investigations of abuse and neglect, including ambiguity about the agency's authority to investigate allegations related to services provided through managed care organizations.

DIGEST:

SB 1880 would require the Department of Family and Protective Services (DFPS) to investigate reports of abuse, neglect, and exploitation for several groups of individuals not currently investigated by the department.

The bill would require individuals to report to the department suspected abuse, neglect, or exploitation of any person receiving services from a provider as defined in the bill. A provider would include:

- a facility,
- a community center, a local mental health authority, or a local intellectual and developmental disability authority;
- a person who contracted with a health and human services agency or managed care organization to provide home and community-based services;
- a person who contracted with a Medicaid managed care organization to provide behavioral health services;
- a managed care organization;
- an officer, employee, agent, contractor, or subcontractor of a person or entity listed above; and
- an employee, fiscal agent, case manager, or service coordinator of an individual employer participating in the consumer-directed service option.

The bill also would require that suspected abuse, neglect, or exploitation of an elderly person or a person with a disability who was not receiving services from one of these providers be reported to DFPS.

Home and community-based services. SB 1880 would specify that DFPS would receive and investigate allegations of abuse, neglect, or exploitation regarding a provider of home and community-based services, regardless of whether those services were provided by a state-licensed nursing home or assisted living facility.

SB 1880 also would authorize DFPS to receive and investigate reports of abuse, neglect, and exploitation of a person who lived in a residence owned or operated by a provider of home and community-based services under the home and community-based waiver program, regardless of whether the person was receiving services under the waiver program from the provider. DFPS would assess the need for emergency protective services upon receipt of such a report. The bill would provide requirements about the cooperation of a provider with the investigation.

SB 1880 would require providers operating under the home and community-based waiver program to post inside any of their residences a sign stating the provider's name and contact information and information about the provider's contract with an applicable health and human services agency.

The bill also would require DFPS to investigate reports of abuse, neglect, or exploitation by a home and community-based services provider working in a convalescent home, nursing home, or assisted living facility with certain exceptions as provided in the bill.

Investigations concerning a child. SB 1880 would require DFPS to investigate reports of abuse, neglect, or exploitation of a child receiving services from a provider as defined by the bill, or as otherwise defined in rule. The department would be required to investigate such reports of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a state-licensed home and community support services agency if one of those individuals was or could be the subject of the allegation.

The bill also would authorize DFPS to provide certain protective services to a child for the investigation of a provider under the home and community-based services waiver program, even if the child was not receiving services under the waiver program.

Other provisions. SB 1880 would prohibit DFPS from investigating reports of alleged abuse, neglect, or exploitation committed by a provider if the provider was operated, licensed, certified, or registered by a state agency that had authority to investigate such reports but would require

that DFPS forward such reports to the appropriate state agency for investigation.

The bill also would specify that the suspected abuse, neglect, or exploitation of a person in facility by someone other than a provider as defined in the bill should be reported to the state agency that operated, licensed, certified, or registered that facility.

Repealed sections. SB 1880 would repeal a section of the Family Code on investigations concerning certain children with mental illness or an intellectual disability. It also would repeal Human Resources Code, ch. 48, subch. H, which governs investigations in certain facilities, community centers, and local mental health and intellectual and developmental disability authorities.

SB 1880 would make other conforming changes necessary to implement the provisions of the bill.

Rulemaking. SB 1880 would require the executive commissioner of the Health and Human Services Commission to adopt rules governing the investigations described in the bill, including rules to:

- prioritize investigations;
- provide for an appeals process for an alleged victim of abuse, neglect, or exploitation; and
- prescribe how other agencies and managed care organizations would share information necessary to determine who was receiving services from providers.

The bill would also require the executive commissioner of the Health and Human Services Commission to establish procedures for forwarding certain investigation reports to appropriate providers and health and human services agencies, as well as procedures to resolve disagreements between DFPS and other health and human services agencies.

The bill would take effect on September 1, 2015.

NOTES: The Legislative Budget Board estimates the bill would have a two-year

negative impact to general revenue of about $3.3 million through fiscal 2016-17.

SUBJECT: Revising school curriculum, limiting instructional material adoptions

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Aycock, Allen, Bohac, Deshotel, Dutton, Farney, Galindo, Huberty, K. King, VanDeaver

0 nays

1 absent — González

SENATE VOTE: On final passage, May 5 — 31-0

WITNESSES: (*On House companion bill, HB 1341*)
For — Mark Terry, Texas Elementary Principals and Supervisors Association; Randy Willis, Granger ISD, Texas Rural Education Association, Texas Community of Schools, Central Texas School Board Association; (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Ellen Arnold, Texas PTA; Portia Bosse, Texas State Teachers Association; Grover Campbell, Texas Association of School Boards; Monty Exter, Association of Texas Professional Educators; Barbara Frandsen, League of Women Voters of Texas; Bill Hammond, Texas Association of Business; Janna Lilly, Texas Council of Administrators of Special Education; Casey McCreary, Texas Association of School Administrators; Ted Melina Raab, Texas American Federation of Teachers; Mike Motheral, Small Rural School Finance Coalition; Colby Nichols, Texas Association of Community Schools, Texas Rural Education Association; Maria Whitsett, Texas School Alliance; Paige Williams, Texas Classroom Teachers Association; Dwain York, Wimberley ISD)

Against — Zenobia Joseph

On — Gloria Zyskowski, Texas Education Agency; (*Registered, but did not testify*: Criss Cloudt and Monica Martinez, Texas Education Agency)

BACKGROUND: SB 6 by Shapiro, enacted by the 82nd Legislature during its first called

session, repealed the technology allotment and established the instructional materials allotment (IMA). The law replaced Education Code references to "textbook" with "instructional material" and expanded the definition of that term. The law required the State Board of Education (SBOE) to set aside 50 percent of the annual distribution from the Permanent School Fund to the Available School Fund to fund the IMA.

Districts are allowed to use the IMA to buy textbooks, technological equipment, and other materials. The allotment also can be used to train certain personnel and employ support staff for technological equipment directly involved in student learning.

DIGEST:

CSSB 313 would require the State Board of Education (SBOE) to narrow the foundation curriculum and limit new instructional materials proclamations to 75 percent of the total amount available for the instructional materials allotment (IMA) during that biennium. It also would require the administration of a college readiness exam to all 10th graders for diagnostic purposes.

Curriculum revision. The bill would require the SBOE to modify and narrow the content and scope of the essential knowledge and skills (TEKS) for the foundation curriculum.

In revising the curriculum, the SBOE would be required to consider the time a teacher needed to provide comprehensive instruction on a particular student expectation and the time a typical student would need to master the expectation. The board also would have to determine whether each TEKS of a subject could be comprehensively taught within the required 180-day school year, excluding testing days. The SBOE would be required to determine whether the college and career readiness standards had been appropriately integrated in the curriculum and to consider whether state-required STAAR assessments would adequately assess a particular student expectation.

The board would be required to first review and modify the TEKS for subjects for which a high school STAAR end-of-course exam was administered before subjects for which a STAAR grade 3-8 test was administered. The curriculum revision would have to be completed by

September 1, 2018. Until the review was completed, the SBOE could not add to or modify the content and scope of standards and skills for any subject in the foundation curriculum.

College readiness. The SBOE would be required by January 1, 2016, to develop a chart that clearly indicated the alignment of college readiness standards and expectations with the TEKS.

Diagnostic assessment. The bill would require school districts, using funds received from the state, to administer to each 10th grade student a college readiness exam designated by the Texas Higher Education Coordinating Board to measure college readiness. A student's performance could be used only for diagnostic purposes, including for determining whether a student should be enrolled in developmental education courses.

Students receiving special education services would be administered the college readiness exam only if the student's admission, review, and dismissal committee determined it was appropriate.

The requirement for college readiness exams would apply only until the SBOE completed the review and modification of the TEKS and would expire September 1, 2018.

Student performance reports. The bill would require the Texas Education Agency to provide a detailed report of a student's performance on the STAAR tests administered in grades 3-8. The report would be delivered to the student and the student's teachers and parent or guardian. It would have to include an analysis of the student's performance on each assessed TEKS standard or skill and whether the student had mastered each. The analysis would have to demonstrate both individual results and results aggregated across classes, campuses, and districts. If the Texas Education Agency utilized a state testing contractor, it would be required to fulfill the requirements for the reports.

Instructional materials. The bill would entitle school districts to a biennial, instead of an annual, allotment from the state instructional materials fund for each student enrolled in the district on a date during the

last year of the preceding biennium. The commissioner of education would be required to deposit the allotment amount in districts' accounts in the first year of each biennium. Districts could place an order for instructional materials before the beginning of a fiscal biennium and receive materials before payment.

The bill would define "proclamation" as a request for production of instructional materials issued by the SBOE. For any biennium, the board could issue proclamations only for instructional materials in which the total projected cost did not exceed 75 percent of the total amount available for the IMA for that biennium. The SBOE would be required to amend any proclamation to comply with the 75 percent limit.

Following the adoption of revised TEKS for any subject, the SBOE would determine whether the issuance of a proclamation was necessary. If necessary, the SBOE would issue a full call for instructional materials, a supplemental call for instructional materials, a call for new information demonstrating alignment of current instructional materials to the revised standards, or any combination of those calls.

In determining the disbursement of money to the Available School Fund for the IMA, the board would be required to consider the cost of all instructional materials and technology requirements for that fiscal biennium and make the 50 percent distribution biennially, rather than annually.

The bill would repeal sections of the Education Code that currently require that a district use instructional materials not on the instructional materials list for a certain period of time and authorize a district to cancel a subscription for instructional materials before the end of the state contract period under certain conditions.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply beginning with the 2015-16 school year.

SUPPORTERS

CSSB 313 would address issues that have been raised about the state's

SAY: public school curriculum and funding for textbooks and technology. It also would help ensure that high school sophomores were prepared for college by administering a diagnostic exam.

Curriculum. The bill also would require the SBOE to narrow the scope of the required curriculum for each subject and grade level. This review could result in TEKS that were more aligned to in-depth learning and more reasonable for teachers to cover in a school year.

Instructional materials. The bill would give districts flexibility to use their instructional materials allotment (IMA) to purchase technology by limiting the costs of textbooks adopted by the SBOE. Although the Legislature intended the IMA to be a dual-purpose fund, technology expenditures have plummeted since the technology allotment was abolished.

In recent years, the SBOE has issued proclamations, or calls, for expensive new textbooks for social studies and science. Districts also needed new books to prepare for STAAR exams. These textbook purchases have left districts with little money to meet technology needs.

The SBOE is aware of the frustration and has taken action by delaying new proclamations and increasing distributions for the IMA. The bill would require the SBOE to be more careful when issuing proclamations by not allowing the cost of new books to exceed 75 percent of the total IMA. Publishers could estimate the cost of delivering new books, which would give the board the information it needed before issuing a proclamation.

The SBOE also would be required to factor in the cost of textbooks when determining the percentage of the Permanent School Fund distribution to the Available School Fund. Additionally, the SBOE would be encouraged to adopt supplemental materials that could be used to update existing textbooks instead of adopting new books.

The bill also would help districts manage their purchases of textbooks and technology by giving them all of their biennial IMA funds at the start of each biennium. This could encourage districts to order materials early,

allowing teachers to have textbooks ready for the first day of class.

College readiness. The bill would require the state to pay for high school sophomores to take an existing college readiness exam approved by the Texas Higher Education Coordinating Board. The results would help identify students who need additional instruction to be prepared for postsecondary success.

Student performance reports. The state's testing contractor would be required to give detailed feedback to students, teachers, and parents regarding which TEKS a student has or has not mastered. It would be appropriate to require the contractor to provide this information, which should be readily available.

OPPONENTS SAY:

CSSB 313 could have a negative effect on the quality and quantity of instructional materials by limiting the SBOE's ability to call for new textbooks when needed. The bill would in essence re-create the technology allotment but could ultimately shortchange the instructional materials needed by students to cover the required curriculum.

The SBOE has a process in place to replace textbooks that become outdated or that are physically falling apart. At times, new books are needed because the Legislature has focused on a particular subject or adopted a new testing regimen. The board needs to retain its ability to respond to districts' needs for new textbooks.

It would be difficult for the board to predict the costs of a future textbook adoption and determine in advance how much money would be available for the IMA. The bill would require the SBOE to consider textbook costs in deciding how to manage the Permanent School Fund, whereas these decisions traditionally have been based on the need to preserve the fund for future generations of schoolchildren.

In addition, the bill is unnecessary because districts already can spend their IMA on technology. Shifting to more technology-based instructional materials, however, could disadvantage students who did not have computers and Internet access at home.

NOTES: The Legislative Budget Board estimates the bill would have a negative impact on general revenue related funds of $18.5 million through fiscal 2016-17.

SUBJECT: Establishing a study on homeless veterans

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Raymond, Rose, S. King, Klick, Naishtat, Peña, Price, Spitzer

1 nay — Keough

SENATE VOTE: On final passage, May 13 — 30-1 (Nichols)

WITNESSES: No public hearing

BACKGROUND: Government Code, ch. 2306 governs the Texas Department of Housing and Community Affairs.

Some have called for the state to examine the issue of homeless veterans more closely in order to determine potential solutions, due to the relatively high rate of homelessness among military veterans in Texas.

DIGEST: SB 1580 would require the Texas Department of Housing and Community Affairs, in conjunction with other members of the Texas Interagency Council for the Homeless, to conduct a study and prepare a report on homeless veterans.

The bill would define "homeless veteran" as a person who had served on active duty of the U.S. military and who lacked a fixed, regular, and adequate nighttime residence, or lived or slept in a place not ordinarily used as a residence or for sleeping accommodations.

In preparing the report, the department would be required to:

- compile existing data on the number of homeless veterans in Texas;
- summarize existing studies regarding the needs of homeless veterans and identify the degree to which current programs were meeting those needs;
- identify existing sources of funding for homeless veterans; and

- develop recommendations for reducing veteran homelessness in the state.

The report would be due to the Legislature by December 1, 2016, and would summarize the information resulting from the study and issue recommendations for changes in law necessary to provide services to or otherwise assist homeless veterans.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.